

D/L. 24.
September 22, 2023.
MNS

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CRM (DB) 576 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Kumargram Police Station Case No. 211 of 2018 dated 18.11.2018 under Section 376(AB) of the Indian Penal Code, 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 wherein Kumargram Police Station Charge sheet No. 224 of 2018 dated 30.12.2018 under Sections 376(AB) of the Indian Penal Code 1860 read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

And

In the matter of: Ajit Bhowmik @ Ujja @ Ujjal

.... Petitioner

Ms. Esha Acharya,
Mr. Sampad Das

... for the petitioner

Mr.Ujjal Luksom,
Ms. Namrata Das

... for the State

1. Learned counsel for the petitioner argues that the petitioner is in custody for 1765 days.

2. It is further argued that the trial is still far off from conclusion since only the second prosecution witness is still being examined whereas there are 19 witnesses in total.
3. Learned counsel for the State submits that the Case Diary is not available with him. As such, learned counsel for the State seeks an adjournment in the matter and also opposes the prayer for bail.
4. Since learned counsel for the petitioner has handed over a certified copy of the entire relevant documents, including the order sheet of the trial, we are of the opinion that in view of the grounds cited below, non production of the case diary is not fatal for adjudication of the present application.
5. In view of the materials available before us, including the certified copy handed over by learned counsel for the petitioner, we are of the opinion that the trial is still at an initial stage since only the second prosecution witness is being examined.
6. Moreover, keeping in view that the petitioner is already in custody for more than 5 years, despite the grievous nature of the offence alleged against the petitioner, we are inclined to grant bail to the petitioner, who is but an under-trial as yet unless convicted later.
7. Hence, CRM (DB) 576 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge under Special Court(POCSO Act), Alipurduar.

8. Further, the petitioner shall not approach or attempt to approach the vicinity of the victim girl and/or try to establish contact with her in any manner, throughout the period of trial.
9. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
10. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.
11. In default of any of the above conditions, the bail of the petitioner shall stand cancelled upon giving an opportunity of hearing to the petitioner.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)